contemplates the sale of the above described types of indicia, the application, such as by printing, of same on the protective members, and the collection of money from such third parties in what may be viewed as a new business method.

2. Description of Prior Art

Today's society is well acquainted with the so called "pop top" aluminum can which doubles both as a pressurized beverage container and drinking device. Also in common use are the usually small "tin" peel strip cans, frequently containing fruit juices which are not pressurized, contain an aperture at the top for beverage consumption, and include a tightly adhered plastic strip which is removed for consumption of the beverage.

While the pop top can and peel strip cans are sometimes used with cups as the beverage consuming medium, they are designed and are perhaps much more frequently used as a beverage consuming container. Position of the container aperture is designed to facilitate convenient consumption directly from the container because the aperture is disposed near but not right at the rim of the top thereof.

Manufacture of these containers and the filing of same with a beverage and sealing thereof is well known to be done by highly automated machinery under what are *assumed* to be sanitary conditions. Nevertheless, in this age of greatly expanded scientific knowledge and heightened health consciousness, it seems

profit as a separate business.

An additional object of the invention is to provide a method which contemplates sanitization of a beverage container, attachment of a protective member to the container, which member covers the mouth contact area on the top, rim and side of the container, adherence of the protective member to the container during shipment, distribution, storage, sale, and consumer transportation of the container, at least partial removal of the protective member by the consumer during opening of the container, as well as the selling, printing and distribution of indicia in a new medium.

Another object of the invention is to provide a mouth contact area protective member which is readily employed by the consumer, easily removed, and does not interfere with consumption of the beverage, and a new business revenue source from paid indicia from a third party.

A variation of the preceding object of the invention is to imprint the protective member with indicia, such as that which may tout the advantages and safety of the invention, or which may be numbered for promotions or premiums, or which may include public service announcements, instructional information, warnings and the like.

A related object of the invention is to employ this imprinted indicia as a medium that is contemplated to produce a revenue stream from third parties such that the costs of the invention are at least in part paid by such third parties, or more beneficially, a new business yielding separate profits from such indicia is

has been termed "the Admitted Prior Art" as recited in the application. The prior art in question in all cases are not method of doing business patents, although many recite methods (and apparati) of displaying advertising, including with beverage containers. The salient point, however, is that none of the cited prior art, including all of the Admitted Prior Art, teaches the *sale of revenue producing* indicia or advertising. To qualify as a sale of revenue producing indicia or advertising contemplates a transaction with an entity willing to pay money for public exposure like one would do for space on a billboard or in a newspaper. No prior art reference teaches or suggests that advertising space is being sold to make money. All of the references fail to distinguish advertising or indicia such as the beverage manufacturer or "bottler" might put on its own product to tout that product or other of its products, versus the sale of space to an unrelated business for the display of indicia including advertising of the paying party.

Although Applicant considered traversing the rejections because no prior art, including the Admitted Prior Art, taught selling advertising to an unrelated entity for money as expressed by the term "conveying" in original claim 1, amendments have been made to claim 1 to specify that the conveyance is a revenue producing sale, a feature that is completely missing from the prior art.

The Examiner concedes that the primary reference, Bjornsen, does not teach selling the right to attach indicia to third parties, p. 4, ¶ 8 of the Office Action. However, Bjornsen does

not teach selling advertising to anyone, third party or not. As such, Bjornsen cannot possibly be a Section 102 reference against any claim since Claim 1 has been amended. The Admitted Prior Art also nowhere teaches selling advertising to an unrelated party for money. This is a critical limitation of a method of doing business patent application that must be taught by a reference and is not with any reference of record. The patent application literally describes an entirely new way of doing business, i.e., making money selling advertising in a location where revenue producing advertising has never been seen before.

Accordingly, it is now believed that the entire application is now in condition for allowance, and that action is respectfully urged. However, should one or more informalities remain such as could be clarified by an Examiner's Amendment, the Examiner is invited to telephone undersigned counsel to facilitate issuance.

One final note concerns the response timing of the Amendment. The shortened statutory period for reply to the Office Action expired yesterday, May 27, 2002. However, May 27, 2002 was Memorial Day, so this response is timely on May 28, 2002.

Respectfully submitted,

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CERTIFICATE OF MAILING

I HEREBY CERTIFY that the foregoing paper has being deposited with the United States Postal Service as Express Mail No. EV065066669US in an envelope addressed to: Honorable Commissioner of Patents & Trademarks, Washington, D.C. 20231, this 28th day of May, 2002 which is neither a Saturday, Sunday, or federal holiday within the District of Columbia, and I accordingly claim the filing date of May 28, 2002 of this paper as provided for in 37 CFR 1.10.

Respectfully submitted,

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